

**CITY COUNCIL MEETING AGENDA**  
**CITY OF FOND DU LAC, WISCONSIN**

Legislative Chambers  
160 S Macy Street

September 22, 2021  
6:00 PM

**1. CALL TO ORDER**

- a. Roll Call
- b. Declaration a Quorum Is Present
- c. Pledge of Allegiance
- d. Silent Reflection
- e. A Proclamation Recognizing Kevin Westphal's Retirement
- f. A Proclamation Declaring October As Domestic Violence Awareness Month
- g. A Proclamation Recognizing October 3rd-9th, 2021 As Fire Prevention Week
- h. Presentation By Firefighters Local 400

**2. PUBLIC HEARINGS**

**3. CONSENT AGENDA**

- a. September 8, 2021 Regular City Council Minutes
- b. List Of Claims Dated September 15, 2021

**4. AUDIENCE COMMENTS (Agenda and Non-agenda items)**

- a. Virtual Instructions

To Participate In The Public Comments:

Dial in Using Your Phone.  
(Toll Free) 1-877-568-4106  
United States: 1-571-317-3129

Enter Access Code: 250-554-733#

Introduce Yourself To The Moderator If You Wish To Register To Speak During The Public Comment Portion Of The Agenda.

Public Participation Sign-Up Sheets and Written Public Comment for Non-Attendance Public Participation Forms can be found  
<https://www.fdl.wi.gov/city-council/>

**5. ACTION ITEMS**

- a. Resolution No. 8951  
A Resolution Acquiring A Street Lighting Easement From Saint

Mary's Springs Academy For The STH 23 Reconstruction Project  
Introduction: Director of Public Works

b. Ordinance No. 3736

An Ordinance Amending The City of Fond du Lac 2040 Comprehensive Plan

Introduction: Community Development Director

c. Ordinance No. 3737

An Ordinance Rezoning Property From C-2 (General Business District) to M-1 (Industrial District) Located At FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01 and FDL-15-17-21-14-753-00 By Mercury Marine

Introduction: Community Development Director

d. Ordinance No. 3738

An Ordinance Amending Chapter 65, Finance And Taxation, Related to Federal Procurement Policy

Introduction: Deputy Procurement Officer, Josh Musack

e. Ordinance No. 3739

An Ordinance Amending Chapter 65, Finance And Taxation, Related To Donations

Introduction: City Attorney

**6. PRESENTATION OF INPUT ITEMS**

**7. ADJOURN**

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: A Proclamation Recognizing Kevin Westphal's Retirement

Subject: A Proclamation Recognizing Kevin Westphal's Retirement

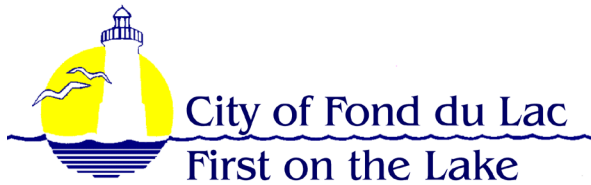
Initiator:

Recommendation:

**ATTACHMENTS:**

File Name

WestphalK\_-\_CM.pdf



# *Proclamation*

*Whereas, Kevin Westphal is retiring from the City of Fond du Lac Department of Public Works on October 1, 2021; and*

*Whereas, Kevin has been a faithful and valued employee; first joining our team as a seasonal employee on September 15, 1977, before accepting a full time position on February 13, 1978; and*

*Whereas, Kevin served the citizens of Fond du Lac in a variety of roles in his early years and is now retiring as a Sign Painter position for the Construction & Maintenance Division; a position he has excelled at since 1979; and*

*Whereas, Kevin has diligently inventoried, maintained, and installed traffic control makings and signage throughout the city; providing regulation, warning, and wayfinding information to all who travel on our roadways, visit our parks, and utilize our trails; and*

*Whereas, the City wishes to commend Kevin for his dedication to providing excellent service to the citizens of Fond du Lac and his commitment to professional excellence.*

*Now, Therefore, I, Kay Miller, President of the Fond du Lac City Council, by my signature affixed, do hereby recognize Kevin Westphal for 44 years and 16 days of dedicated service to the citizens of the City of Fond du Lac and extend the City's best wishes for a long and prosperous retirement.*

*Dated: September 2021*

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*Kay Miller  
City Council President*

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: A Proclamation Declaring October As Domestic Violence  
Awareness Month

Subject: A Proclamation Declaring October As Domestic Violence  
Awareness Month

Initiator:

Recommendation:

**ATTACHMENTS:**

File Name

Domestic\_Violence\_Awareness\_2021.pdf



# Proclamation

*Whereas, the Domestic Abuse Response Team (DART), a collaborative effort of local organizations and agencies addressing domestic abuse in Fond du Lac County, recognizes October as Domestic Violence Awareness Month; and*

*Whereas, 1 in 4 women and 1 in 7 men will experience violence by an intimate partner in their lifetime affecting thousands of people in our community; and*

*Whereas, the Fond du Lac Prevention Education Committee is inviting citizens to participate in **Light up the Night Purple** by changing their porch lights to purple in October to honor domestic violence awareness month; and*

*Whereas, on October 7, 2021, a remembrance event called **Light up the Night** will take place downtown on Main Street to remember victims of domestic abuse, bring awareness, and support survivors, friends, and families affected by domestic abuse; and*

*Whereas, October 21st is **Wear Purple Day** to show support for survivors of domestic abuse; and*

*Whereas, we stand united in our commitment to ending all forms of domestic abuse in our community.*

*Now, **Therefore**, I, Kay Miller, President of the Fond du Lac City Council, by my signature affixed, do hereby proclaim October as Domestic Violence Awareness Month in the City of Fond du Lac and encourage the entire community to get involved during the month by participating in various Light up the Night events.*

*Dated: September 2021*

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Kay Miller  
City Council President

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: A Proclamation Recognizing October 3rd-9th, 2021 As Fire Prevention Week

Subject: A Proclamation Recognizing October 3rd-9th, 2021 As Fire Prevention Week

Initiator:

Recommendation:

**ATTACHMENTS:**

File Name

Fire\_Prevention\_Week\_2021.pdf



# Proclamation

*Whereas, the City of Fond du Lac is committed to ensuring the safety and security of all those living in and visiting Fond du Lac; and*

*Whereas, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and*

*Whereas, home fires killed 2,770 people in the United States in 2019 and fire departments responded to 339,500 home fires; and*

*Whereas, the Fond du Lac Fire/Rescue responded to 94 fire calls in our community last year; and*

*Whereas, working smoke alarms sense smoke well before you can, alerting you to danger in the event of fire in which you may have as little as 2 minutes to escape safely and cut the risk of dying in reported home fires in half; and*

*Whereas, residents should be sure everyone in the home understand the sounds of the alarms and knows how to respond; and*

*Whereas, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire and*

*Whereas, the 2021 Fire Prevention Week theme, “**Learn the Sounds of Fire Safety**” effectively serves to remind us to learn the different sounds of smoke and carbon monoxide alarms.*

***Now, Therefore,** I, Kay Miller, President of the Fond du Lac City Council, do hereby proclaim October 3-9, 2021, as Fire Prevention Week, and I urge the community to learn the sounds of fire safety and support the public safety activities and efforts of Fond du Lac Fire/Rescue during Fire Prevention Week 2021 and invite the community to an Open House at the Public Safety Training Center on Tuesday, October 5<sup>th</sup> from 4:30-6:30pm.*

*Dated: September 2021*

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*Kay Miller  
City Council President*



**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: September 8, 2021 Regular City Council Minutes

Subject: September 8, 2021 Regular City Council Minutes

Initiator:

Recommendation:

**ATTACHMENTS:**

File Name

Minutes\_2021\_9\_8\_Meeting(823).pdf

**CITY COUNCIL MEETING MINUTES  
CITY OF FOND DU LAC, WISCONSIN**

Legislative Chambers  
160 S Macy Street

September 8, 2021  
6:00 PM

**CALL TO ORDER**

Roll Call

Present

Arletta Allen  
Tiffany Brault  
Ben Giles  
Keith Heisler  
Kay Miller  
Patrick Mullen  
Donna Richards

Absent

None

Administrative Staff

Joseph Moore, City Manager  
Tracy Salter, Dir of Admin  
Tricia Davi, Comptroller/Treasurer  
Joshua Musack, Dpty Procurement Officer  
Deb Hoffmann, City Attorney  
Paul De Vries, Dir of Public Works  
Cody Schoepke, WTRRF Superintendent  
Aaron Goldstein, Chief of Police  
Peter O'Leary, Fire Chief  
Kathryn Duveneck, IT Service Director

Declaration a Quorum Is Present

President Miller declared a quorum present.

Pledge of Allegiance

Pledge of Allegiance was recited.

Silent Reflection

A moment of silent reflection was observed.

**CONSENT AGENDA**

August 25, 2021 Council Minutes

List Of Claims Dated September 1, 2021

A Motion was made by Arletta Allen to approve the consent agenda

and seconded by Patrick Mullen, and the motion was **Passed**.  
Ayes: Allen, Brault, Giles, Heisler, Miller, Mullen, Richards

#### **AUDIENCE COMMENTS (Agenda and Non-agenda items)**

No audience comments were made at this meeting.

#### **ACTION ITEMS**

Denial Of Claim

A Motion was made by Keith Heisler to approve denial of claim for Amber Schultz and seconded by Arletta Allen, and the motion was **Passed**.

Ayes: Allen, Brault, Giles, Heisler, Miller, Mullen

Abstain: Richards

Class "B" Fermented Malt and "Class B" Intoxicating Liquor License

A Motion was made by Arletta Allen to approve Class "B" Fermented Malt and "Class B" Intoxicating Liquor License for Casa del Tequila Bar & Grill, LLC d/b/a Casa del Tequila Bar & Grill located at 525 N Peters Ave, Suite 100 and seconded by Donna Richards, and the motion was **Passed**.

Ayes: Allen, Brault, Giles, Heisler, Miller, Mullen, Richards

Class "B" Fermented Malt and "Class B" Intoxicating Liquor License

A Motion was made by Keith Heisler to approve Class "B" Fermented Malt and "Class B" Intoxicating Liquor License for JSK Investments III, LLC d/b/a Spectrum Roller Rink located at 605 Fond du Lac Avenue and seconded by Patrick Mullen, and the motion was **Passed**.

Ayes: Allen, Brault, Giles, Heisler, Miller, Mullen, Richards

#### **PRESENTATION OF INPUT ITEMS**

Federal Procurement Policy

Federal Procurement Policy was presented by Josh Musack, Deputy Procurement Officer.

Outlying Sewer Group Agreement

Outlying Sewer Group Agreement was presented by Paul De Vries, Public Works Director.

#### **ADJOURN**

A Motion was made by Arletta Allen to adjourn at 6:50 p.m. and seconded by Keith Heisler, and the motion was **Passed.**  
Ayes: Allen, Brault, Giles, Heisler, Miller, Mullen, Richards

Margaret Hefter  
City Clerk

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: List Of Claims Dated September 15, 2021

Subject: List Of Claims Dated September 15, 2021

Initiator:

Recommendation:

**ATTACHMENTS:**

File Name

List\_of\_Claims\_Memo\_09-15-21.pdf

# ***CITY OF FOND DU LAC - Memorandum***

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## **Department of Administration**

**Date:** September 15, 2021

**To:** City Council

**From:** Tracy Salter, Director of Administration

**Re:** List of Claims

The list of claims for goods and services for the payment periods August 28, 2021 through September 10, 2021 for all funds total \$917,554.15. Wisconsin statute 66.0609 (2) requires the comptroller to file, at least monthly with the City Council, a list of approved claims paid.

Suggested Motion: Receive and File

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: Virtual Instructions

Subject: To Participate In The Public Comments:

Dial in Using Your Phone.  
(Toll Free) 1-877-568-4106  
United States: 1-571-317-3129

Enter Access Code: 250-554-733#

Introduce Yourself To The Moderator If You Wish To  
Register To Speak During The Public Comment Portion Of  
The Agenda.

Public Participation Sign-Up Sheets and Written Public  
Comment for Non-Attendance Public Participation Forms  
can be found <https://www.fdl.wi.gov/city-council/>

Initiator:

Recommendation:

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: Resolution No. 8951

Subject: A Resolution Acquiring A Street Lighting Easement From  
Saint Mary's Springs Academy For The STH 23  
Reconstruction Project  
Introduction: Director of Public Works

Initiator:

Recommendation: Plan Commission Recommendation: **Approve**

**ATTACHMENTS:**

**File Name**

8951\_Aquiring\_Easement\_from\_SMSA.pdf

SMSA\_Maps\_and\_Legal\_Easement\_Acquisition\_-\_Sept\_2021.pdf

SMSA\_Memo.pdf

9-13-2021\_Plan\_Commission\_Excerpt\_Acquisition\_of\_Easement\_St.\_Mary\_s\_\_Springs.pdf



**RESOLUTION NO. 8951**

**A RESOLUTION ACQUIRING A STREET LIGHTING EASEMENT FROM  
SAINT MARY'S SPRINGS ACADEMY FOR THE STH 23  
RECONSTRUCTION PROJECT**

**WHEREAS**, as part of the STH 23 reconstruction project, WisDOT is reconstructing CTH K to the north and in front of Saint Mary's Springs Academy (SMSA); and

**WHEREAS**, during the recent installation of street lighting, it was discovered that the new poles and conduit would not fit in the platted right-of-way; and

**WHEREAS**, in order to facilitate the improvements, the City is requesting an easement from SMSA, for relocation of the light poles and conduit; and

**WHEREAS**, the City Plan Commission recommended the acquiring of the easement at its meeting on September 13, 2021.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Fond du Lac that the proper City officials are hereby authorized and directed to acquire an easement from SMSA, as described above for relocation of street lighting and conduit as shown on the attached maps and legal description incorporated herein.

**ADOPTED:**

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Kay Miller, President  
Fond du Lac City Council

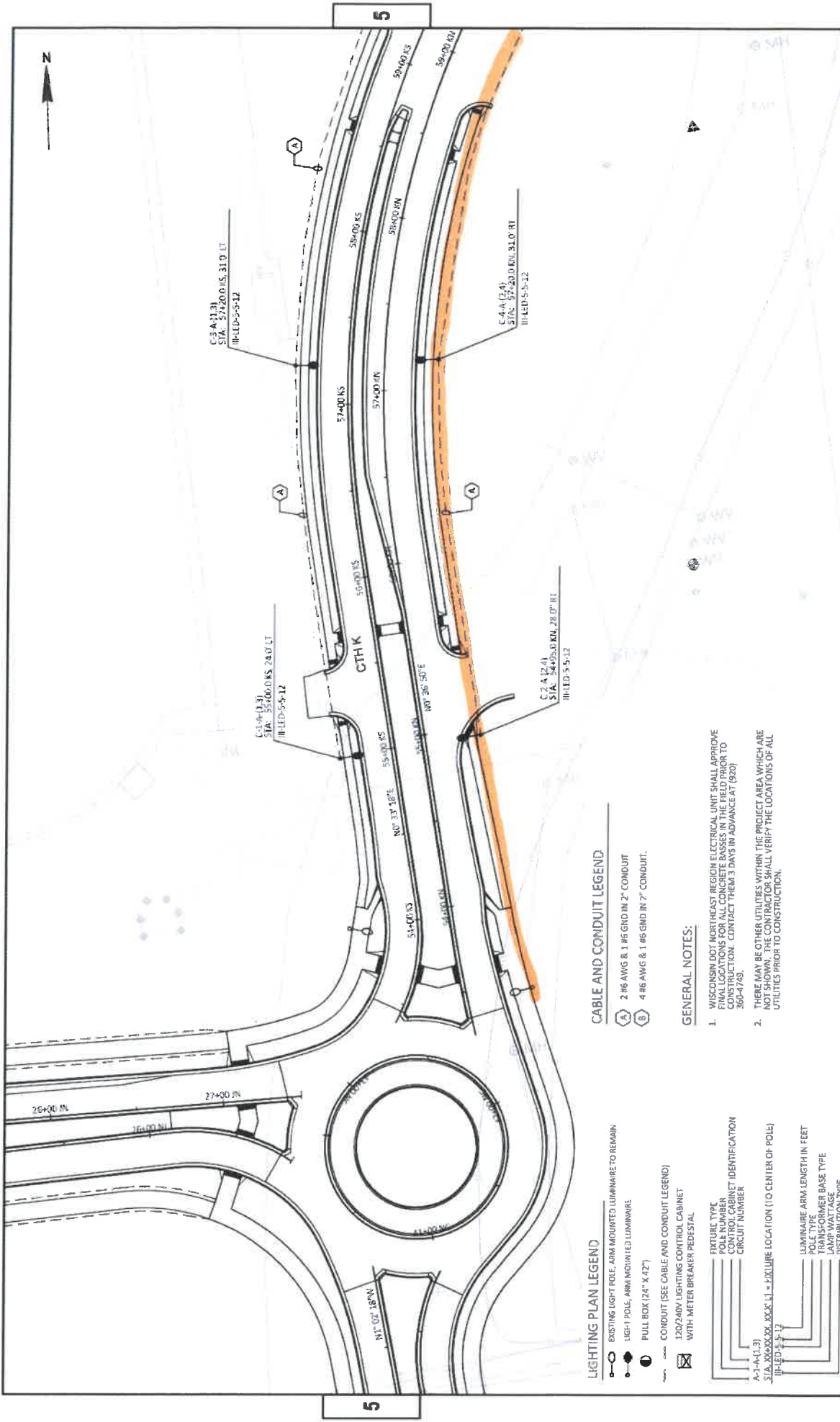
Attest:

City Attorney:

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Margaret Hefter, City Clerk

Reviewed 



**LIGHTING PLAN LEGEND**

- EXISTING LIGHT POLE, ARM MOUNTED LUMINAIRE TO REMAIN
- LIGHT POLE, ARM MOUNTED LUMINAIRE
- PULL BOX (24" X 42")
- CONDUIT (SEE CABLE AND CONDUIT LEGEND)
- 120/240V LIGHTING CONTROL CABINET WITH METER BREAKER PEDESTAL

- FIXTURE TYPE
- POLE NUMBER
- CONTROL CABINET IDENTIFICATION
- CIRCUIT NUMBER
- A-1-A (1.3)
- S/A: 2660000, 2660000, 2660000, 2660000
- IP-LED 5-5-12
- LUMINAIRE ARM LENGTH IN FEET
- POLE TYPE
- LUMINAIRE BASE TYPE
- LAMP WATTAGE
- DISTRIBUTION TYPE

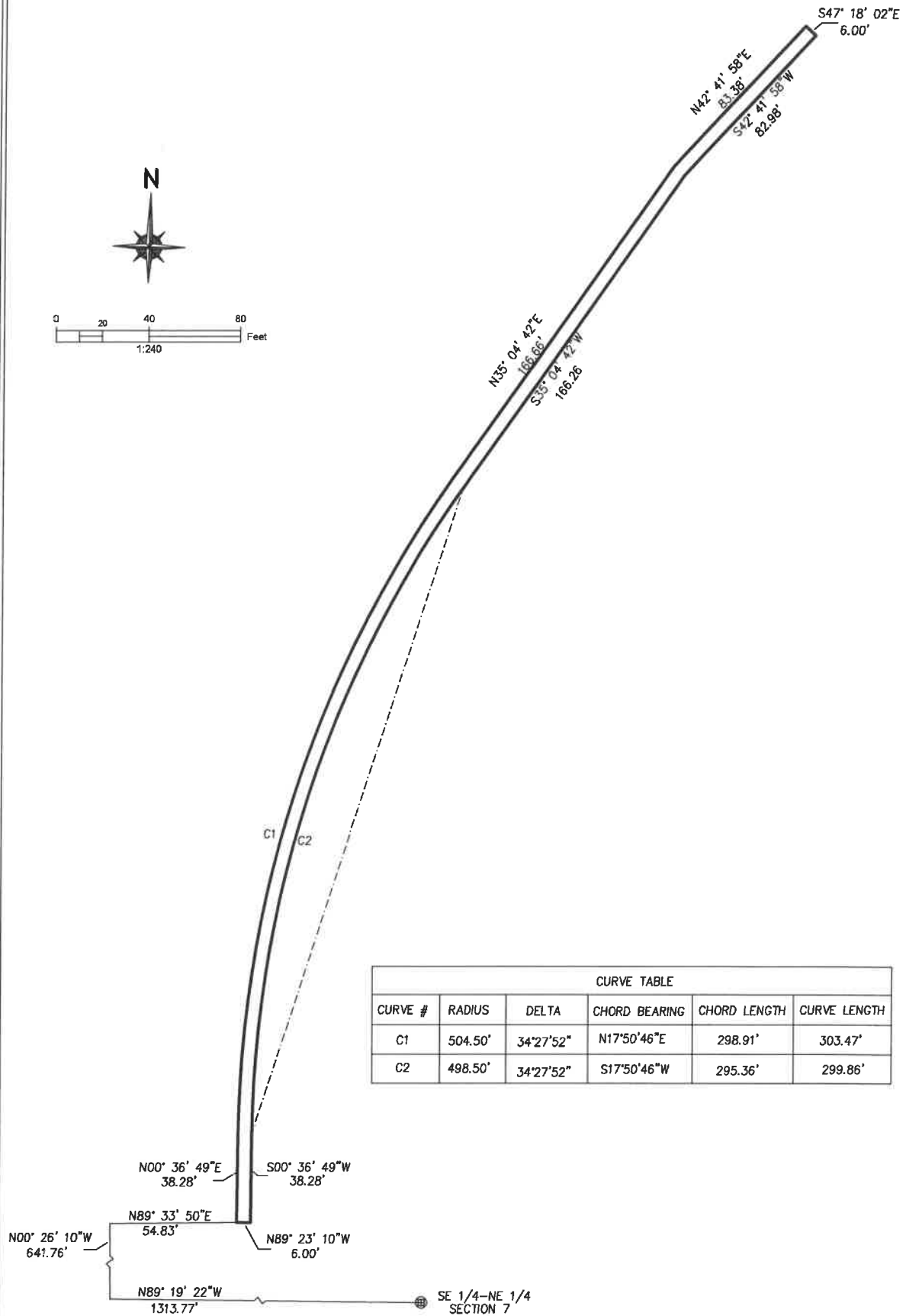
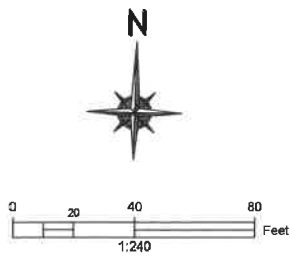
**CABLE AND CONDUIT LEGEND**

- 2 #6 AWG & 1 #6 GND IN 2" CONDUIT
- 4 #6 AWG & 1 #6 GND IN 2" CONDUIT

**GENERAL NOTES:**

1. WISCONSIN DOT NORTHEAST REGION ELECTRICAL UNIT SHALL APPROVE FINAL LOCATIONS FOR ALL CONCRETE BASES IN THE FIELD PRIOR TO CONSTRUCTION. CONTACT THEM 3 DAYS IN ADVANCE AT (920) 380-4765.
2. THERE MAY BE OTHER UTILITIES WITHIN THE PROJECT AREA WHICH ARE NOT SHOWN. THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL UTILITIES PRIOR TO CONSTRUCTION.





PROJECT NAME:  
CTH "K" STREET  
LIGHTING EASEMENT  
PROJECT FOLDER  
\\CITYWORKS\3D Drawings\Comments\CTH K Street Light Easement  
DRAFTED BY: JWF  
DATE: 09/08/2021

### SMSA Lighting Easement

Part of Lot 1 of CSM Number 3284, located in the Southwest 1/4 of the Northeast 1/4 and the Southeast 1/4 of the Northeast 1/4, and part of CSM Number 323, located in the Southeast 1/4 of the Northeast 1/4, all in Section 7, Township 15 North, Range 18 East, City of Fond du Lac, Fond du Lac County, Wisconsin bounded and described as follows;

Commencing at the Southeast corner of the Northeast 1/4 of said Section 7; thence North 89° 19' 22" West, a distance of 1313.77 feet along the south line of said Northeast 1/4; thence North 00° 26' 10" West, a distance of 641.76 feet along the west line of the Southwest 1/4 of the Northeast 1/4 of said Section 7; thence North 89° 33' 50" East, a distance of 54.83 feet to a point on the westerly right-of-way of County Trunk Highway K and the Point of Beginning for this description; thence North 00° 36' 49" East, a distance of 38.28'; thence 303.47 feet along a curve to the right having a radius of 504.50 feet and a chord of North 17° 50' 46" East, 298.91 feet; thence North 35° 04' 42" East, a distance of 166.66 feet; thence North 42° 41' 58" East, a distance of 83.38 feet; thence South 47° 18' 02" East, a distance of 6.00 feet; thence South 42° 41' 58" West, a distance of 82.98 feet; thence South 35° 04' 42" West, a distance of 166.26 feet; thence 299.86 feet along a curve to the left having a radius of 498.50 feet and a chord of South 17° 50' 46" West, 295.36 feet; thence South 00° 36' 49" West, a distance of 38.28 feet; thence North 89° 23' 10" West, a distance of 6.00 feet to the Point of Beginning.

Said parcel contains 0.081 acres, more or less.

# ***CITY OF FOND DU LAC - Memorandum***

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Engineering and Traffic Division

**Date:** September 13, 2021

**To:** Plan Commission

**From:** Paul De Vries, P.E., City Engineer

**Re:** City Street Light Easement

This memo and attached supporting documents cover the agenda item Acquisition of Easement from St. Mary's Springs Academy (SMSA) for the Plan Commission's September 13, 2021 meeting.

As part of the STH 23 reconstruction project, WisDOT is reconstructing CTH K to the north and in front of SMSA. During the recent installation of street lighting, it was discovered that the new poles and conduit would not fit in the platted right-of-way. The City had discussions with WisDOT and SMSA and the consensus was to locate the poles behind the sidewalk, which is SMSA property. They have agreed in concept to the light pole location and to grant the City an easement for our poles and conduit.

The acquisition an easement requires City Council approval. City Engineering staff suggests the Plan Commission recommend to the City Council approval of acquisition of an easement from SMSA subject to City staff negotiations.

## PLAN COMMISSION MINUTES

Monday, September 13, 2021

5:30 P.M.

Meeting Room A / Go to Meeting  
Street  
City-County Government Center  
Wisconsin

160 South Macy

Fond du Lac,

### OPENING CEREMONIES

#### Attendance

##### Present

Ben Giles

Craig Much

Derek TerBeest

Sarah Van Buren

##### Absent

Antonio Godfrey Sr

Alicia Hans

##### Administrative Staff

Dyann Benson, Director of Community Development

Paul DeVries, Director of Public Works

Kolin Erickson, Principal Planner

Tracy Salter, Director of Administration

#### Declaration Quorum Present

Chair Van Buren declared a quorum present at 5:30 p.m.

\*\*\*\*\* Other Business \*\*\*\*\*

### ACTION

#### Acquisition of Easement

Effect: Acquire an Street Lighting Easement

Location: CTH K and St. Mary's Springs Academy

Initiator: Director of Public Works

A Motion was made by TerBeest to approve recommendation to the City Council the acquisition of an easement for street lighting at CTH K and St. Mary's Springs Academy subject to city staff negotiations and seconded by Giles, and the motion was **Passed**.

Ayes: Giles, Much, TerBeest, Van Buren

Nays: None

\*\*\*\*\* Other Business \*\*\*\*\*

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: Ordinance No. 3736

Subject: An Ordinance Amending The City of Fond du Lac 2040  
Comprehensive Plan  
Introduction: Community Development Director

Initiator:

Recommendation: Plan Commission Recommendation: **Approve**

**ATTACHMENTS:**

**File Name**

3736\_Amending\_Comp\_Plan\_1.pdf

Comp\_Plan\_Amend\_1.pdf

9-13-2021\_Plan\_Commission\_Excerpt\_Comprehensive\_Plan\_Amendment\_No\_1.pdf



**ORDINANCE NO. 3736**

**AN ORDINANCE AMENDING THE  
CITY OF FOND DU LAC 2040 COMPREHENSIVE PLAN**

The City Council of the City of Fond du Lac do ordain as follows:

**Section 1.** That the City of Fond du Lac 2040 Comprehensive Plan is hereby amended as indicated on the attached map.

**Section 2.** All other ordinances and resolutions inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 3.** This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

**ADOPTED:**

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Kay Miller, President  
Fond du Lac City Council

Attest:

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Margaret Hefter, City Clerk

City Attorney:  
Reviewed DSM

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Plan Commission of the City of Fond du Lac, Wisconsin, will conduct a Public Hearing at 5:30 p.m. on Monday, September 13, 2021 in Meeting Room A of the City-County Government Center, 160 South Macy Street, to amend the Comprehensive Plan for the City of Fond du Lac.

The Comprehensive Plan identifies where growth should occur and makes recommendations of future development in the City. The purpose of the proposed Amendment is to permit the future industrial development of vacant land currently designated for transportation and commercial uses.

The property affected by the proposed Amendment consists of two lots located northwest of the intersection of W Pioneer Road (CTH VV) and S Hickory Street. The affected land is described as follows:

Parcel Number: FDL-15-17-21-14-753-00, 1.27 acres; and  
Parcel Number: FDL-15-17-21-14-751-01, 1.5 acres.

For further information you are invited to contact the Community Development Department at (920) 322-3440. A copy of the proposed Comprehensive Plan Amendment is on file in the Community Development Department.

All persons having an interest in the area are invited to participate in the hearing and express their opinions. Written communications will also be considered. The meeting will be conducted in both in-person and virtual formats. Instructions for participating in the virtual meeting will be provided on the meeting agenda available on the City's website. The meeting agenda for the Plan Commission can be accessed on the Calendar tab on the home page of the City's website; [www.fdl.wi.gov](http://www.fdl.wi.gov). Published in accordance with Section 62.23, Wisconsin Statutes.

Dated this 5th day of August, 2021

MARGARET HEFTER  
City Clerk

Published: August 8, 2021

## COMPREHENSIVE PLAN AMENDMENT

### Existing Land Use Designation: General Commercial & Transportation



Area of Plan Amendment (Parcels: FDL-15-17-21-14-751-01 and FDL-15-17-21-14-753-00)

## COMPREHENSIVE PLAN AMENDMENT

Recommended Land Use Designation: Industrial



Area of Plan Amendment

# ***CITY OF FOND DU LAC - Memorandum***

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Department of Community Development

**Date:** August 23, 2021

**To:** Plan Commission

**From:** Kolin Erickson, Principal Planner

**Re:** Comprehensive Plan Amendment No. 1

**Location:** FDL-15-17-21-14-753-00, 1.27 acres; and FDL-15-17-21-14-751-01, 1.5 acres

**Request:** Change comprehensive plan land use designations from General Commercial and Transportation to Industrial.

**Existing Land Use:**

Sites:	Vacant Land
North:	Vacant Land
South:	W Pioneer Road
East:	S Hickory Street
West:	Vacant Land

## **Analysis**

The Comprehensive Plan identifies where growth should occur and makes recommendations of future development. Reflective of the dynamics of development and growth, the Comprehensive Plan carries an expectation that amendments would be needed to address changing conditions of land use and development.

The two parcels identified above are located directly northwest of the round-about at W Pioneer Road and S Hickory Street. The Comprehensive Plan identifies one parcel for future general commercial use (FDL-15-17-21-14-751-01). The other parcel is an abandoned railway line and the Comprehensive Plan identifies it for future transportation use (FDL-15-17-21-14-753-00). Mercury Marine is located northwest, nearby both parcels. Mercury Marine is planning on acquiring these vacant parcels for future industrial development.

To facilitate future industrial development of both parcels, a change of zoning from commercial to industrial is proposed. In considering appropriate zoning for a property continuity between zoning and land use is required. In other words, the *zoning* of a property must reflect the *use* of the property. The proposed industrial zoning of the subject properties conflicts with the existing land use designations for both commercial and transportation uses; therefore, a change to the Comprehensive Plan is necessary in order for the zoning to change.

The suggested industrial land use designation expands an existing area of the same land use category. The proposed land use designation reflects the industrial development anticipated for the subject properties.

The Comprehensive Plan Amendment and rezoning proposal will be considered as separate items on the September 13<sup>th</sup> Plan Commission agenda.

<b>Recommendation</b>
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The process for amending the Comprehensive Plan is the same used for adoption of the Plan. Community Development staff advises the Plan Commission recommend to the City Council a change of land use designation for the parcel identified as FDL-15-17-21-14-751-01, from General Commercial to Industrial; and for the parcel identified as FDL-15-17-21-14-753-00, from Transportation to Industrial.



Rezoning and Comprehensive Plan Amendment  
545 W Pioneer Road

Parcel Number	Site Address	Mailing Address 1	Mailing City	State	Zip
FDL-15-17-16-43-512-01	740 S MILITARY RD	536 S SEYMOUR ST	FOND DU LAC	WI	54935
FDL-15-17-15-33-610-00	601 S HICKORY ST	N5354 LEDGETOP DR	FOND DU LAC	WI	54937
FDL-15-17-15-33-613-00	607 S HICKORY ST	111 CUMBERLYNN DR	FOND DU LAC	WI	54935
FDL-15-17-16-44-777-00	450 ARLINGTON AVE	PO BOX 460369	HOUSTON	TX	77056
FDL-15-17-22-22-262-00	0 DIXIE ST	PO BOX 150	FOND DU LAC	WI	54936
FDL-15-17-21-14-753-00		6250 N RIVER RD STE 9000	ROSEMONT	IL	60017
FDL-15-17-21-11-001-00	624 S HICKORY ST	W6152 COUNTY TRUNK B	FOND DU LAC	WI	54935
FDL-15-17-16-43-524-00	765 S MILITARY RD	765 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-21-11-003-00	640 S HICKORY ST	640 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-16-44-770-00	721 S MILITARY RD	1192 FOND DU LAC AVE	FOND DU LAC	WI	54935
FDL-15-17-21-11-004-00	650 S HICKORY ST	650 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-15-33-612-00	605 S HICKORY ST	605 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-22-22-255-00	631 S HICKORY ST	631 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-21-11-002-00	630 S HICKORY ST	630 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-21-12-250-00	743 S MILITARY RD	PO BOX 427	FOND DU LAC	WI	54936
FDL-15-17-21-12-250-00	743 S MILITARY RD	PO BOX 427	FOND DU LAC	WI	54936
FDL-15-17-21-12-256-02	821 S MILITARY RD	821 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-21-12-255-00	661 W PIONEER RD	PO BOX 309	ONALASKA	WI	54650
FDL-15-17-16-44-769-00	699 S MILITARY RD	18 JEWELERS PARK DR STE 100	NEENAH	WI	54956
FDL-15-17-21-11-007-01	545 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-11-007-01	545 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-11-007-01	545 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-13-500-01	600 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-13-500-01	600 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-13-500-01	600 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-13-500-01	600 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-21-13-500-01	600 W PIONEER RD	PO BOX 1939	FOND DU LAC	WI	54936
FDL-15-17-16-43-518-03	770 S MILITARY RD	2401 S MEMORIAL DR	APPLETON	WI	54915
FDL-15-17-21-14-752-01	0 W PIONEER RD	817 W MAIN ST	BROWNSVILLE	WI	53006
FDL-15-17-22-23-503-00	717 S HICKORY ST	PO BOX 64101 MS-5185	ST PAUL	MN	55164
FDL-15-17-22-23-503-00	717 S HICKORY ST	PO BOX 64101 MS-5185	ST PAUL	MN	55164
FDL-15-17-21-11-001-01	606 S HICKORY ST	606 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-22-22-256-00	659 S HICKORY ST	659 S HICKORY ST	FOND DU LAC	WI	54935

Rezoning and Comprehensive Plan Amendment  
545 W Pioneer Road

FDL-15-17-22-23-503-08	825 S HICKORY ST	2075 S MOORLAND RD	NEW BERLIN	WI	53151
FDL-15-17-15-33-611-00	603 S HICKORY ST	603 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-16-43-525-00	745 S MILITARY RD	5321 CORPORATE BLVD	BATON ROUGE	LA	70808
FDL-15-17-21-12-254-00	650 OAK PARK AVE	650 OAK PARK AVE	FOND DU LAC	WI	54935



## PLAN COMMISSION MINUTES

Monday, September 13, 2021

5:30 P.M.

Meeting Room A / Go to Meeting  
Street  
City-County Government Center  
Wisconsin

160 South Macy

Fond du Lac,

### OPENING CEREMONIES

#### Attendance

##### Present

Ben Giles

Craig Much

Derek TerBeest

Sarah Van Buren

##### Absent

Antonio Godfrey Sr

Alicia Hans

##### Administrative Staff

Dyann Benson, Director of Community Development

Paul DeVries, Director of Public Works

Kolin Erickson, Principal Planner

Tracy Salter, Director of Administration

#### Declaration Quorum Present

Chair Van Buren declared a quorum present at 5:30 p.m.

\*\*\*\*\* Other Business \*\*\*\*\*

### PUBLIC HEARING

#### Comprehensive Plan Amendment No. 1

Request: Change the Comprehensive Plan land use designations from General Commercial and Transportation to Industrial.

Location: FDL-15-17-21-14-751-01 and FDL-15-17-21-14-753-00

Applicant: City of Fond du Lac

##### Appeared in Support:

Dave Hahn, Mercury Marine (virtual)

Trent Poole (virtual)

A Motion was made by TerBeest to approve recommendation to City Council to change the Comprehensive Plan land use designations from General Commercial and Transportation to Industrial for FDL-15-17-21-14-751-01 and FDL-15-17-21-14-753-00, and seconded by Much, and the motion was **Passed**.

Ayes: Giles, Much, TerBeest

Nays: None

Abstain: Van Buren

\*\*\*\*\* Other Business \*\*\*\*\*

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: Ordinance No. 3737

Subject: An Ordinance Rezoning Property From C-2 (General Business District) to M-1 (Industrial District) Located At FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01 and FDL-15-17-21-14-753-00 By Mercury Marine  
Introduction: Community Development Director

Initiator:

Recommendation: Plan Commission Recommendation: **Approve**

**ATTACHMENTS:**

**File Name**

3737\_Corrected\_Ordinance\_Rezoning\_Mercury.pdf

RezoneMapsExhibitA.pdf

Mercury\_Marine\_Rezone\_Agenda\_redacted.pdf

9-13-2021\_Plan\_Commission\_Excerpt\_Rezone\_Mercury\_Marine.pdf

## ORDINANCE NO. 3737

### AN ORDINANCE REZONING PROPERTY FROM C-2 (GENERAL BUSINESS) TO M-1 (INDUSTRIAL DISTRICT) LOCATED AT FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01 and FDL-15-17-21-14-753-00 BY MERCURY MARINE

The City Council of the City of Fond du Lac do ordain as follows:

**WHEREAS**, Mercury Marine has petitioned for rezoning undeveloped 11.9 acres from C-2 (General Business District) to M-1 (Industrial District); and

WHEREAS, the Plan Commission recommended approval of the rezoning petition at its meeting September 13, 2021.

THEREFORE, the City Council of the City of Fond du Lac do ordain as follows:

**Section 1.** Chapter 720, ZONING, Section 720-8., Zoning Map; district boundaries., of the Code of the City of Fond du Lac is hereby amended by rezoning the following parcels of land in the City of Fond du Lac from C-2 (General Business District) to M-1 (Industrial District):

Parcel Nos. FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01 and FDL-15-17-21-12-753-00 (at northwest corner of South Hickory Street and West Pioneer Road), as shown on the attached Exhibit A incorporated herein by reference.

**Section 2.** This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

#### ADOPTED:

---

Kay Miller, President  
Fond du Lac City Council

Attest:

---

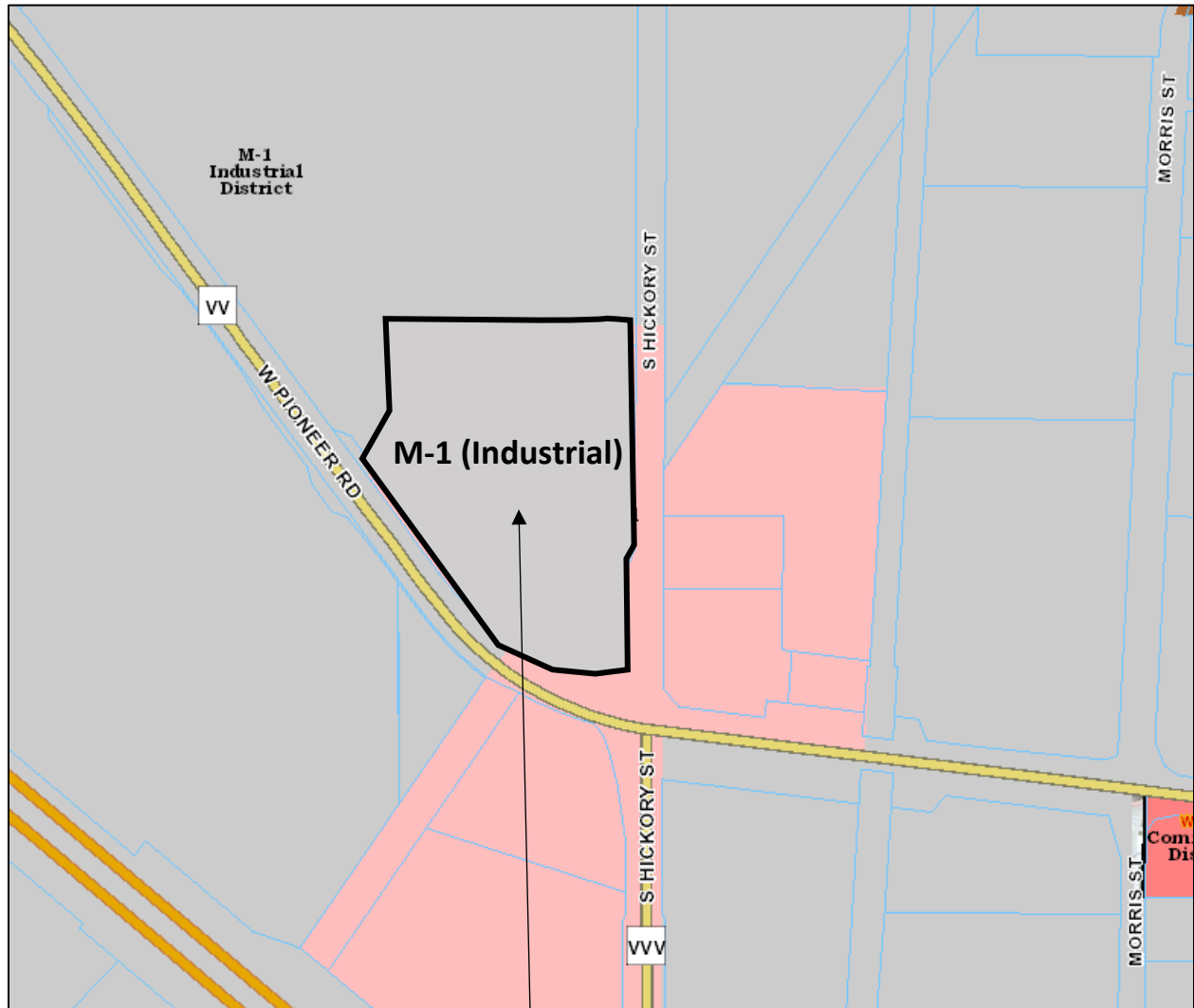
Margaret Hefter, City Clerk

City Attorney:  
Reviewed 

## Exhibit A

### REZONING – MERCURY MARINE

C-2 (General Commercial) to M-1 (Industrial)



Area of Rezoning

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Plan Commission of the City of Fond du Lac, Wisconsin, will conduct a Public Hearing at 5:30 p.m. on September 13, 2021, in Meeting Room A of the City-County Government Center, 160 South Macy Street, at the request of Mercury Marine, to rezone land from C-2 (General Business) to M-1 (Industrial).

The land to be rezoned consists of three parcels identified as: FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01 and FDL-15-17-21-14-753-00.

The meeting will be conducted in both in-person and virtual formats. Instructions for participating in the virtual meeting will be provided on the meeting agenda available on the City's website. The meeting agenda for the Plan Commission can be accessed on the Calendar tab on the home page of the City's website; [www.fdl.wi.gov](http://www.fdl.wi.gov).

All persons having an interest in the area are invited to participate in the hearing and express their opinions. Written communications will also be considered. For further information you are invited to contact the Community Development Department at (920) 322-3440. Published in accordance with Section 62.23, Wisconsin Statutes.

Dated this 18th day of August, 2021

MARGARET HEFTER  
City Clerk

Published: August 29, 2021



# REZONING

## Application

Northwest Corner of Pioneer Road & Hickory Street

**PROPERTY LOCATION:** \_\_\_\_\_

Tax Key Number: FDL- \_\_\_\_\_

FDL-15-17-21-14-751-01; FDL-15-17-21-14-752-01; FDL-15-17-21-14-753-00

Project Applicant			
Name <b>Stephen Marsch</b>			
Mailing Address <b>W6250 Pioneer Rd.,</b>	City <b>Fond du Lac</b>	State <b>WI</b>	ZIP Code <b>54936-1939</b>
Email Address	Phone Number		
Landowner (Complete this information if the project applicant is not the property owner.)			
Name <b>See Attachment:</b>			
Mailing Address	City	State	ZIP Code
Email Address	Phone Number		
Landowner Certification			
If the person requesting the rezoning is not the owner of the property affected by the proposal, the consent of the landowner is necessary. Refer to the LANDOWNER AUTHORIZATION form included with the rezoning application packet.			

C2

**Existing Property Zoning Classification:** \_\_\_\_\_

M1

**Proposed Zoning Classification:** \_\_\_\_\_

Vacant Land

Description of present use of property: \_\_\_\_\_

Purpose of rezoning. Description of proposed use of property and/or proposed site development:  
Future Manufacturing Development

Unknown

Time schedule for use and/or development of the property: \_\_\_\_\_

**PROJECT APPLICANT SIGNATURE**



## LANDOWNER AUTHORIZATION

**TO: City of Fond du Lac**  
**Community Development Department**

**Re: REZONING REQUEST**

**LOCATION:** FDL-15-17-21-14-751-01 and FDL-15-17-21-14-752-01

PROPERTY ADDRESS AND/OR TAX KEY NUMBER

The undersigned Pioneer & Hickory LLC is the owner of property  
NAME OF PROPERTY OWNER (PLEASE PRINT)

referenced above. The undersigned authorizes Brunswick Corporation (Stephen Marsch)

to sign and file a rezoning application that affects the referenced property.

Michels Corporation, its manager

By:  **W. Dirk Hausmann** Senior Real Estate Counsel 8/23/2021  
81EB685248EF495...  
SIGNATURE OF LAND OWNER OR AUTHORIZED AGENT DATE



## LANDOWNER AUTHORIZATION

**TO: City of Fond du Lac**

**Community Development Department**

**Re: REZONING REQUEST**

**LOCATION:** FDL-15-17-21-14-753-00

PROPERTY ADDRESS AND/OR TAX KEY NUMBER

The undersigned WISCONSIN Central LTD. is the owner of property  
NAME OF PROPERTY OWNER (PLEASE PRINT)

referenced above. The undersigned authorizes Brunswick Corporation

to sign and file a rezoning application that affects the referenced property.

Sydney Cervantes  
SIGNATURE OF LAND OWNER OR AUTHORIZED AGENT

8/18/21  
DATE

DOC# 955387

Filed  
MAR 02, 2010 AT 11:35AM

*Patricia Kraus*

PATRICIA KRAUS  
REGISTER OF DEEDS  
FOND DU LAC COUNTY  
Fee Amount: \$13.08

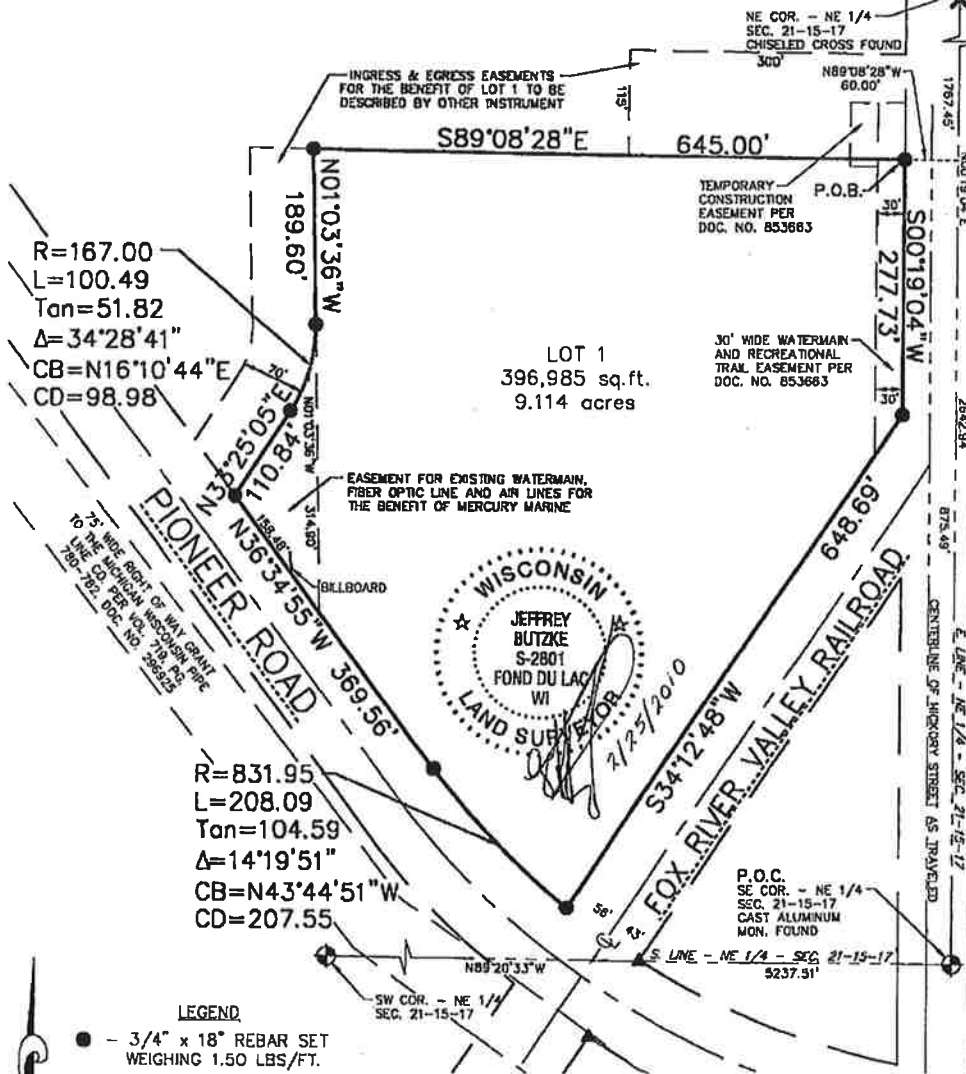
**CERTIFIED SURVEY MAP**  
FOR  
**MERCURY MARINE**  
A DIVISION OF BRUNSWICK CORPORATION  
A PART OF THE SE 1/4 OF THE NE 1/4,  
SECTION 21, T. 15 N.-R. 17 E., CITY OF FOND DU LAC,  
FOND DU LAC COUNTY, WISCONSIN.

VOLUME 55 CERTIFIED SURVEY MAPS  
PAGES 25 - 25A

CERTIFIED SURVEY MAP # 7519

VOLUME 55

PAGE 25



- LEGEND**
- - 3/4" x 18" REBAR SET WEIGHING 1.50 LBS/FT.
  - - 3/4" REBAR FOUND.
  - ▲ - 1" IRON PIPE FOUND.
  - ✕ - CHISELED CROSS FOUND.
  - ⊕ - CAST ALUMINUM MONUMENT FOUND.

NORTH POINT REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, FOND DU LAC COUNTY. THE EAST LINE OF THE NORTHEAST QUARTER HAS A RECORDED BEARING OF N00°19'04"E



Tax Key No. FDL-15-17-21-11-007



**EXCEL**  
ENGINEERING, Inc.  
**SURVEYING GROUP**  
PROJECT NO. 1000880

Always a Better Plan  
100 CAMBLOT DRIVE  
FOND DU LAC, WI 54935  
PHONE: (920) 926-8800  
FAX: (920) 926-9801

SHEET 1 OF 2 SHEETS

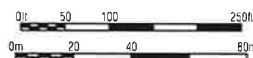
*Parcel A*



**DESCRIPTION:** 2355/WIPR/101258 (1.18 Acs. +/-)  
 Fond Du Lac  
 Sale of Wisconsin  
 United States of America

**PROPERTY SKETCH**

 **Subject Lands/Terrain Sujet**



**THIS IS NOT A PLAN OF SURVEY / CECI N'EST PAS UN PLAN D'ARPENTAGE**

**SUBDIVISION:** Waukesha (435)  
**SPUR / ANTENNE:** Fond Du Lac Aban, Spur (RE02)  
**MILEAGE / MILLIAIRE:** H B 158.4 (175.04 - 176.00)  
**DATE:** May 11, 2021  
**SCALE / ÉCHELLE:** 1:2000







Street View #1: Pioneer Road, Northeast of the Round-About



Street View #2: Pioneer Road Northeast of Round-About,  
Across from the Wild Goose State Trail



Street View #3: Hickory Street North of Round-About, Shell Pump & Pantry Parking Lot



Street View #4: Hickory Street North





## REZONING – MERCURY MARINE

Existing Zoning: C-2 (General Commercial)



Parcels: FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01, and FDL-15-17-21-14-753-00

## REZONING – MERCURY MARINE

C-2 (General Commercial) to M-1 (Industrial)

Recommended Zoning: M-1 (Industrial)



Area of Rezoning



# ***CITY OF FOND DU LAC - Memorandum***

---

Department of Community Development

**Date:** August 24, 2021

**To:** Plan Commission

**From:** Kolin Erickson, Principal Planner

**Re:** Rezoning – Parcels (FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01, and FDL-15-17-21-14-753-00)

**Initiator:** Mercury Marine

**Request:** Rezone property from C-2 (General Business) to M-1 (Industrial)

**Zoning:** Site: C-2 (General Business)  
North: M-1 (Industrial)  
South: M-1, C-2  
East: M-1, C-2  
West: M-1

**Land Use:** Site: Vacant Land  
North: Mercury Marine  
South: Mercury Marine, Wild Goose State Trail, Agnesian Pharmacy  
East: Pump N’ Pantry Convenience Store  
West: Mercury Marine

## **Analysis**

The subject properties are located directly northwest of the round-about at S Hickory St and W Pioneer Road. The three properties are zoned C-2 (General Business); a change of zoning to M-1 (Industrial) is proposed. The site in total, is approximately 11.88 acres of undeveloped land owned by two separate entities. Mercury Marine is in the process of acquiring all three parcels.

Neighboring properties adjacent to the subject properties are zoned M-1 in all directions. Further development of the subject properties for commercial uses is not anticipated and/or likely given the land is currently undeveloped and in a predominantly industrial area.

The proposed rezoning would extend an area of existing industrial zoning of adjacent properties to the subject properties. The proposed rezoning also reflects the intended industrial use of the properties after acquisition by Mercury Marine. Approval of the

proposed rezoning would not create a negative effect or harm to any adjacent or nearby property.

The Comprehensive Plan identifies where growth should occur and makes recommendations of future development. Wisconsin's comprehensive planning legislation requires that an action for rezoning be consistent with the Comprehensive Plan. In other words, the *zoning* of a property must reflect the *use* of the property. The proposed zoning (industrial) for two parcels conflicts with the current Comprehensive Plan land use designations. Parcel FDL-15-17-21-14-751-01 is designated for general commercial uses; parcel FDL-15-17-21-14-753-00 is designated for transportation uses); therefore, a change to the Comprehensive Plan is necessary in order for the zoning to change.

The Comprehensive Plan Amendment and rezoning proposal will be considered as separate items on the September 13<sup>th</sup> Plan Commission meeting agenda.

<b>Recommendation</b>
-----------------------

Community Development staff advises the Plan Commission recommend to the City Council rezoning of parcels FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01, and FDL-15-17-21-14-753-00 from C-2 (General Business) to M-1 (Industrial).

Rezoning and Comprehensive Plan Amendment  
545 W Pioneer Road

Parcel Number	Site Address	Mailing Address 1	Mailing City	State	Zip
FDL-15-17-16-43-512-01	740 S MILITARY RD	536 S SEYMOUR ST	FOND DU LAC	WI	54935
FDL-15-17-15-33-610-00	601 S HICKORY ST	N5354 LEDGETOP DR	FOND DU LAC	WI	54937
FDL-15-17-15-33-613-00	607 S HICKORY ST	111 CUMBERLYNN DR	FOND DU LAC	WI	54935
FDL-15-17-16-44-777-00	450 ARLINGTON AVE	PO BOX 460369	HOUSTON	TX	77056
FDL-15-17-22-22-262-00	0 DIXIE ST	PO BOX 150	FOND DU LAC	WI	54936
FDL-15-17-21-14-753-00		6250 N RIVER RD STE 9000	ROSEMONT	IL	60017
FDL-15-17-21-11-001-00	624 S HICKORY ST	W6152 COUNTY TRUNK B	FOND DU LAC	WI	54935
FDL-15-17-16-43-524-00	765 S MILITARY RD	765 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-21-11-003-00	640 S HICKORY ST	640 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-16-44-770-00	721 S MILITARY RD	1192 FOND DU LAC AVE	FOND DU LAC	WI	54935
FDL-15-17-21-11-004-00	650 S HICKORY ST	650 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-15-33-612-00	605 S HICKORY ST	605 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-22-22-255-00	631 S HICKORY ST	631 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-21-11-002-00	630 S HICKORY ST	630 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-21-12-250-00	743 S MILITARY RD	PO BOX 427	FOND DU LAC	WI	54936
FDL-15-17-21-12-250-00	743 S MILITARY RD	PO BOX 427	FOND DU LAC	WI	54936
FDL-15-17-21-12-256-02	821 S MILITARY RD	821 S MILITARY RD	FOND DU LAC	WI	54935
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FDL-15-17-21-14-752-01	0 W PIONEER RD	817 W MAIN ST	BROWNSVILLE	WI	53006
FDL-15-17-22-23-503-00	717 S HICKORY ST	PO BOX 64101 MS-5185	ST PAUL	MN	55164
FDL-15-17-22-23-503-00	717 S HICKORY ST	PO BOX 64101 MS-5185	ST PAUL	MN	55164
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Rezoning and Comprehensive Plan Amendment  
545 W Pioneer Road

FDL-15-17-22-23-503-08	825 S HICKORY ST	2075 S MOORLAND RD	NEW BERLIN	WI	53151
FDL-15-17-15-33-611-00	603 S HICKORY ST	603 S HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-16-43-525-00	745 S MILITARY RD	5321 CORPORATE BLVD	BATON ROUGE	LA	70808
FDL-15-17-21-12-254-00	650 OAK PARK AVE	650 OAK PARK AVE	FOND DU LAC	WI	54935

## PLAN COMMISSION MINUTES

Monday, September 13, 2021

5:30 P.M.

Meeting Room A / Go to Meeting  
Street  
City-County Government Center  
Wisconsin

160 South Macy

Fond du Lac,

### OPENING CEREMONIES

#### Attendance

##### Present

Ben Giles  
Craig Much  
Derek TerBeest  
Sarah Van Buren

##### Absent

Antonio Godfrey Sr  
Alicia Hans

##### Administrative Staff

Dyann Benson, Director of Community Development  
Paul DeVries, Director of Public Works  
Kolin Erickson, Principal Planner  
Tracy Salter, Director of Administration

#### Declaration Quorum Present

Chair Van Buren declared a quorum present at 5:30 p.m.

\*\*\*\*\* Other Business \*\*\*\*\*

### PUBLIC HEARING

#### Rezone

Request: Rezone property from C-2 (General Business District) to M-1  
(Industrial District)

Location: FDL-15-17-21-14-751-01, FDL-15-17-21-14-752-01 and FDL-15-17-  
21-14-753-00

Applicant: Mercury Marine

##### Appeared in Support:

Dave Hahn, Mercury Marine (virtual)  
Trent Poole (virtual)

A Motion was made by Much to recommend to the City Council rezoning of the subject property from C-2 (General Business) to M-1 (Industrial) and seconded by TerBeest, and the motion was **Passed**.

Ayes: Giles, Much, TerBeest

Nays: None

Abstain: Van Buren

\*\*\*\*\* Other Business \*\*\*\*\*

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: Ordinance No. 3738

Subject: An Ordinance Amending Chapter 65, Finance And Taxation,  
Related to Federal Procurement Policy  
Introduction: Deputy Procurement Officer, Josh Musack

Initiator:

Recommendation:

**ATTACHMENTS:**

**File Name**

3738\_Amending\_Chapter\_65\_Fed\_Procurement\_Policy.pdf

Back\_up\_for\_Purchasing\_Changes\_8\_18\_21.pdf

## ORDINANCE NO. 3738

### AN ORDINANCE AMENDING CHAPTER 65, FINANCE AND TAXATION, RELATED TO FEDERAL PROCUREMENT POLICY

The City Council of the City of Fond du Lac hereby do ordain as follows:

**Section 1.** That Chapter 65, Finance and Taxation, Section 65-7, Purchasing., is hereby created to read as follows:

**Add Thereto:**

D.1. Federal Uniform Grant Guidance. For any and all procurements that apply Federal funding, City, and subrecipients, if any, will follow all applicable Procurement Standards as found in 2 CFR 200. In general, if there is a conflict, City, or subrecipient(s), will be required to comply with whichever requirement is more stringent, including the City's own statutes, ordinances, rules, and regulations; which may be more stringent than the Federal standards.

**Section 2.** That Chapter 65, Finance and Taxation, Section 65-7.I., Purchasing., is hereby amended as follows:

I. Formal contract procedure. All equipment, supplies and contractual services, except as otherwise provided herein or by statute, when the estimated cost shall exceed \$50,000 (\$25,000 for public construction), shall be purchased by formal, written bids and subsequent written contract from the lowest responsible bidder after notice inviting bids.

**Section 3.** That Chapter 65, Finance and Taxation, Section 65-7.J., Purchasing., the first paragraph is hereby amended as follows:

J. Quotation procedure. All purchases of equipment, supplies, and contractual services, when the estimated cost is between \$10,000 and \$50,000 (\$10,000 and \$25,000 for public construction), shall be made in accordance with the following procedure, except the procedure may be waived if the Agent determines it to be impossible or impractical:



**Section 4.** Any person violating the provisions of this Ordinance shall be subject to the penalty provided in Section 1-4 of the Code.

**Section 5.** The appropriate City officials are hereby authorized and directed to take such action as is necessary to effectuate the terms of this Ordinance.

**Section 6.** All other ordinances and resolutions inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 7.** This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

**ADOPTED:**

---

Kay Miller, President  
Fond du Lac City Council

Attest:

City Attorney:

---

Margaret Hefter, City Clerk

Reviewed DSM

## Chapter 65. Finance and Taxation

### § 65-7. Purchasing.

[Amended 6-27-1995 by Ord. No. 2793; 1-26-2000 by Ord. No. 2989; 7-13-2011 by Ord. No. 3462]

#### A.

Purpose. The purpose of this section is to secure for the taxpayers the advantages and economies which will result from centralized control over the expenditures of funds for supplies, materials, equipment and contractual services; from the application of modern, businesslike methods to such expenditures; and from better utilization of the articles procured at public expense.

#### B.

Definitions. For the purpose of this section the following terms, phrases, words and their derivations shall have the meaning given below. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and not merely directory.

#### CITY

The City of Fond du Lac, Wisconsin.

#### CITY PURCHASING AGENT or AGENT

The Purchasing Agent of the City of Fond du Lac.

#### CONTRACTUAL SERVICES

Services that involve public construction or improvements rendered to the City by others under expressed or implied agreement, but shall not include professional and other contractual services which are in their nature unique and not subject to competition.

#### COUNCIL

The City Council of the City of Fond du Lac.

#### SUPPLIES

Includes all supplies, materials and equipment furnished to the City.

#### USING AGENCY

Any department, agency, commission, bureau or other unit in the City government using supplies or procuring contractual services as provided for in this section. The term is intended to apply to those agencies which are under the administrative jurisdiction of the City Manager.

#### C.

City Purchasing Agent. The Director of Administration shall serve as City Purchasing Agent and shall have general supervision of City purchasing. The Agent shall appoint a purchasing coordinator within the Comptroller's division who shall perform the duties prescribed by this section and all other duties assigned by the Agent.

#### D.

Scope of purchasing authority. The Agent shall purchase or contract for all equipment, supplies and contractual services needed and requisitioned by any using agency in the City except as otherwise provided in this section, in accordance with such rules and regulations as the City Manager may prescribe from time to time for the management and operation of the Division of Purchasing, in keeping with the spirit of this section.

#### (1)

Unauthorized purchases. Except as herein provided, no City officer or employee shall order the purchase of any equipment or supplies or make any contract within the purview of this section other

than through the Purchasing Agent, and any purchase ordered or contracts made contrary to the provisions hereof shall not be binding on the City and shall make the purchaser personally liable.

(2)

Disqualification of bidders. The Agent shall have the authority to declare vendors who default on their bids or quotations irresponsible bidders and to disqualify them from receiving any business from the City for a stated period of time.

(3)

Committee on Standards and Specifications. The Agent shall prepare and secure with the cooperation of the City departments standard and written specifications for supplies used by the various branches of the City government. To assist the Agent in this work the City Manager may establish a Committee on Standards and Specifications to be composed of the City Purchasing Agent as Chairperson and such other officials as the City Manager may designate.

(4)

Exemptions from centralized purchasing. The Purchasing Agent may, and where legally required to do so shall, authorize in writing any agency to purchase or contract for certain specified classes of supplies, materials, equipment or contractual services independently of the Agent's office, but such purchases or contracts shall be made in conformity with the applicable provisions of this section. The Agent may also rescind such authorization to purchase independently by written notice to the agency concerned, unless otherwise prohibited by law.

(5)

Purchasing cards. Purchases of equipment, supplies and contractual services may be made through properly established purchasing cards or other similar means where permitted and authorized by the Agent. The City Manager shall promulgate rules and regulations governing the proper and authorized use of purchasing cards. The City Comptroller shall review monthly statements showing the actual expenditures for each using agency made through the use of purchasing cards. Improper or unauthorized use of purchasing cards may be cause for termination of employment or other disciplinary action.

(6)

Assistance. The Purchasing Agent shall have the power and authority to call upon any officer, board, department or commission to furnish information or otherwise assist in the purchasing function if within the scope of such officer, board, department or commission.

**D.1. Federal Uniform Grant Guidance. For any and all procurements that apply Federal funding, City, and subrecipients, if any, will follow all applicable Procurement Standards as found in 2 CFR 200. In general, if there is a conflict, City, or subrecipient(s), will be required to comply with whichever requirement is more stringent, including the City's own statutes, ordinances, rules, and regulations; which may be more stringent than the Federal standards.**

E.

Requisitions and estimates. All using agencies shall file with the Agent detailed requisitions or estimates of their requirements in supplies and contractual services in such manner, at such time and for such future period as the Agent shall prescribe.

F.

Encumbrance of funds. Except in cases of emergency, the Agent shall not issue any order for delivery on a contract or purchase until the Comptroller shall have certified that there is to the credit of the

accounts of using agencies concerned a sufficient available unencumbered appropriation balance, in excess of all unpaid obligations, to pay the amount of such order.

G.

Gratuities. The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the City from any vendor or contractor or prospective vendor or contractor, except where given for the use and benefit of the City, shall be deemed to be a violation of this section and may be cause for termination of employment or other disciplinary action. The offer of any such gratuity to any official or employee of the City by any vendor or contractor, or prospective vendor or contractor, may be cause for declaring such individual or firm to be an irresponsible vendor and for barring him or it from bidding as provided by this section.

H.

Competitive bidding required. All purchases of and contracts for equipment, supplies and contractual services shall, except as specifically provided herein, be based wherever practicable on competitive bids. No splitting of orders as an evasion of the procedure described herein shall be permitted.

I.

~~Formal contract procedure. All equipment, supplies or public construction, except as otherwise provided herein or by statute, when the estimated cost shall exceed \$25,000, shall be purchased by formal, written bids and subsequent written contract from the lowest responsible bidder after notice inviting bids.~~<sup>43</sup>

I. Formal contract procedure. All equipment, supplies and contractual services, except as otherwise provided herein or by statute, when the estimated cost shall exceed \$50,000 (\$25,000 for public construction), shall be purchased by formal, written bids and subsequent written contract from the lowest responsible bidder after notice inviting bids.

(1)

Notice inviting bids. Notice inviting bids shall be published one or more times in the official newspaper of the City and/or in an appropriate trades journal at least five days preceding the last day set for the receipt of proposals. The newspaper notice required herein shall include a general description of the articles to be purchased and shall state where bid blanks and specifications may be secured and the time and place for opening bids.

(2)

Bidders' list for public construction contracts. The Agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names be added to a bidders' list which the Agent shall maintain by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders' list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which invitations are sent.

(3)

Bid deposits. When deemed necessary by the Agent and/or when required by state law, bid deposits shall be required in an amount within the discretion of the Agent to assure that the successful bidder will execute a contract. Unsuccessful bidders shall be entitled to return of the bid deposit where the Agent has required the same. A successful bidder shall forfeit any bid deposit required by the Agent upon failure on his part to enter a contract within 10 days after the award, unless such time is extended by the City.

(4)

Bid opening procedure. Bids shall be submitted to the Agent. They shall be identified as bids on the envelope and opened in public at the time and place stated in the public notices. A tabulation of all the bids received shall be recorded and open to public inspection.

(5)

Rejection of bids.

(a)

The Agent shall have the authority to reject all bids or parts of all bids for any equipment, supplies or contractual services included in the proposed contract when the public interest shall be served thereby.

(b)

No bid shall be awarded to a contractor who is in default on the payment of taxes, licenses or other moneys due the City or who has defaulted on a previous contract with the City.

(6)

Award of contract.

(a)

Committee on Awards. Contracts within the purview of this section shall be awarded by a Committee on Awards composed of the City Manager, who shall serve as Chairperson, the Director of Public Works and the Purchasing Agent.

(b)

Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the Committee on Awards shall consider the ability, capacity and skill of the bidder to perform the contract or provide the service required; whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the bidder; the quality of performance of previous contracts or services; the previous and existing compliance by the bidder with laws and ordinances relating to the contract or service; the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; the quality, availability and adaptability of the equipment, supplies or contractual services to the particular use required; the ability of the bidder to provide future maintenance and service and the potential cost of such maintenance and service for the use of the subject of the contract; and the number and scope of conditions attached to the bid.

(c)

Tie bids. If two or more low bids are received for the same contract total amount, unit price, quality and service being equal, the contract shall be awarded to a resident bidder. If there is no resident bidder, the contract shall be awarded to one of the tie bidders by drawing lots.

(d)

Award to other than lowest bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for doing so shall be prepared by the Agent and filed with other papers relating to the transaction.

(7)

Performance bonds. The Agent shall have the authority to specify the requirements of a performance bond before requesting bids and entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the City.

(8)

Prohibition against subdivision. No contract or purchase shall be subdivided to avoid or circumvent the requirements of this section.

J.

~~Quotation procedure. All purchases of equipment, supplies and contractual services, when the estimated cost is between \$10,000 and \$25,000, shall be made in accordance with the following procedure, except the procedure may be waived if the Agent determines it to be impossible or impractical:~~

Quotation procedure. All purchases of equipment, supplies, and contractual services, when the estimated cost is between \$10,000 and \$50,000 (\$10,000 and \$25,000 for public construction), shall be made in accordance with the following procedure, except the procedure may be waived if the Agent determines it to be impossible or impractical:

(1)

Minimum number of quotations. Quotation purchases, wherever practicable, shall be based on at least three competitive quotations and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Subsection **1(6)** above.

(2)

Notice inviting quotations. The Agent may solicit quotations by direct request in person, by mail, telephone, or through internet websites without advertisement.

(3)

Recording. The Agent shall keep a record of all orders and the quotations obtained and such records shall be open to public inspection.

#### K. Exceptions.

(1)

Exceptions to bidding or quotation procedures. Purchases of equipment, supplies and contractual services when the estimated cost is less than \$10,000 may be made without the benefit of formal bids or quotations. Solicitation of quotations for purchases of less than \$10,000 is encouraged but not required.

(2)

State contract or cooperative purchasing. Purchases of equipment, supplies or services through State of Wisconsin or other governmental cooperative purchasing plans is encouraged. Purchases made through such cooperative plans may be made without the requirement to solicit formal bids or quotations since such purchases are already based on competitive pricing.

(3)

Petty expenditures. Purchases of supplies or services in amounts less than \$500 may be made from properly established petty cash accounts by the heads of using agencies for incidentals and shall be reviewed by the Comptroller's Division and approved for reimbursement. The City Manager shall promulgate rules and regulations for the use of petty cash accounts.

(4)

Professional services. Contracts for professional services may be entered into by the City Manager or the Director of Administration without the requirement for competitive bidding since professional services are by their nature unique.

[Amended 4-8-2015 by Ord. No. 3579]

(5)

Real estate transactions. All real estate transactions shall be made subject to the approval of the City Council, provided that the City Manager or other City officials may perform all delegable functions in connection therewith as the City Council may direct.

(6)

Emergency purchases. An emergency shall be deemed to exist when a breakdown in machinery or in an essential service occurs or when unforeseen circumstances arise, including delays by contractors, delays in transportation and unanticipated volume of work. If an emergency occurs during regular business hours, the head or other employee of the using agency shall immediately notify the Agent who shall either purchase the required commodity or service or authorize the using agency to do so. If the Agent is unavailable, the head of the using agency shall notify the City Manager before making the purchase. If an emergency occurs at times other than regular business hours, the using agency may purchase directly the commodity or commodities required. If the estimated cost of the emergency purchase exceeds \$10,000, the head of the agency shall, wherever possible, secure competitive quotations and order delivery to be made by the lowest responsible bidder. On every emergency purchase made the agency head shall not later than one week thereafter submit to the Agent a requisition, a tabulation of quotations received, if any, a delivery receipt and a written explanation of the circumstances of the emergency. The records of such emergency transaction shall be open to public inspection during regular business hours.

(7)

Proprietary purchases. Proprietary, patented equipment, supplies or services available from only one source shall be exempt from the requirement for competitive bidding or quotations.

(8)

Purchases of used equipment. Purchases of used equipment, materials or supplies may be authorized by the Agent without the use of the formal bid or quotation procedure outlined in this section.

(9)

Donations. Purchases of equipment, materials, supplies, and services made in conjunction with projects for which any materials have been donated or any labor for the project has been provided by volunteers shall be exempt from this section.

[Amended 4-24-2014 by Ord. No. 3544]

L.

Inspection and testing. The using agency shall inspect all deliveries of equipment, supplies or contracted services made to such using agencies to determine their compliance with the quantities and specifications set forth in the order or contract.

M.

Surplus equipment, materials or supplies. The Agent shall have the authority to sell surplus equipment, materials or supplies or to exchange the same for or trade on new purchases, or to authorize the disposal of such items.

(1)

Using agencies. Using agencies shall notify the Agent of any surplus equipment, materials or supplies which may have become obsolete, unsuitable or no longer needed prior to the disposal of such items.

(2)

Permission of the Agent. Other City employees shall not be permitted to sell, remove or dispose of surplus items without the permission of the Agent. Improper, unauthorized removal or disposal or unauthorized personal use of City property, including surplus property, may be cause for termination of employment or other disciplinary action.

**CITY COUNCIL MEETING AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

Title: Ordinance No. 3739

Subject: An Ordinance Amending Chapter 65, Finance And Taxation,  
Related To Donations  
Introduction: City Attorney

Initiator:

Recommendation:

**ATTACHMENTS:**

**File Name**

3739\_Amending\_Chapter\_65.with\_donation\_change.pdf

Cover\_memo.\_Revisions\_to\_Donations\_Exception\_to\_Bidding\_requirments.pdf

Back\_up\_for\_Donations\_Changes\_9\_16\_21.pdf



## ORDINANCE NO. 3739

### AN ORDINANCE AMENDING CHAPTER 65, FINANCE AND TAXATION, RELATED TO DONATIONS

The City Council of the City of Fond du Lac hereby do ordain as follows:

**Section 1.** That Chapter 65, Finance and Taxation, Section 65-7.K (9)., Donations. ., is hereby amended to read as follows:

- (9) Donations. The City incorporates by the reference the state law exception for donated materials and labor, pursuant to Section 62.15(1), Wis. Stats or as subsequently amended.

**Section 2.** Any person violating the provisions of this Ordinance shall be subject to the penalty provided in Section 1-4 of the Code.

**Section 3.** The appropriate City officials are hereby authorized and directed to take such action as is necessary to effectuate the terms of this Ordinance.

**Section 4.** All other ordinances and resolutions inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 5.** This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

#### ADOPTED:

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Kay Miller, President  
Fond du Lac City Council

Attest:

City Attorney:

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Margaret Hefter, City Clerk

Reviewed DSM

# ***CITY OF FOND DU LAC - Memorandum***

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Date: September 16, 2021  
To: City Manager, City Council  
From: Deborah S.R. Hoffmann, City Attorney/Director of HR  
Subject: Revision to Donations Exception to the Bidding Requirement

The proposed revision adopts the state code exception to bidding requirements regarding donated materials and labor under Section 62.15(1), Wis. Stats. As a general practice, I like to adopt state code sections by reference and make clear that we will accept subsequent amendments. That way, the City Code stays current with the State Code and we do not have to make multiple updates to our City Code if the State Code is amended. The intent of our ordinance was follow the exception allowed under state law.

## **Recommendation**

City Staff is recommends:

1. That the donations exception to the bidding requirement be approved using Ordinance No. 3739.

## Chapter 65. Finance and Taxation

### § 65-7. Purchasing.

...

#### K. Exceptions.

##### (1)

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~~[Amended 4-24-2014 by Ord. No. 3544]~~

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